

EXHIBIT 20

1
2 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

3 -----x
KATHRYN TOWNSEND GRIFFIN,
4 HELEN MCDONALD, and THE ESTATE
OF CHERRIGALE TOWNSEND,

5
-against-

6 Civil Action No.:
1:17-CV-05221-RJS/GRIFFIN

7
8 EDWARD CHRISTOPHER SHEERAN,
p/k/a ED SHEERAN, ATLANTIC
9 RECORDING CORPORATION, d/b/a
ATLANTIC RECORDS, SONY/ATV
10 MUSIC PUBLISHING LLC and
WARNER MUSIC GROUP
11 CORPORATION, d/b/a ASYLUM
RECORDS,

12 Defendants.

13 -----x

14 May 30, 2018
15 10:02 a.m.

16
17 Videotaped Deposition of ALEXANDER STEWART,
18 taken by Defendants, pursuant to Notice, held at the
19 law offices of Pryor Cashman, LLP, 7 Times Square,
20 New York, New York, before Judith Castore, a
21 Certified Livenote Reporter and Notary Public of the
22 State of New York.

1 STEWART

2 Q And looking at the deposit
3 copy of Let's Get It On -- not the
4 sheet music, the deposit copy -- do you
5 agree that the Let's Get It On deposit
6 copy does not include drums?

7 A The drums are not notated on
8 the deposit copy.

9 Q And do you agree that the
10 base part is not notated on the Let's
11 Get It On deposit copy?

12 A The base part is implied but
13 it is not notated.

14 Q What do you mean by implied?

15 A Well, it's implied by virtue
16 of the fact that -- the deposit copy
17 shows or indicates where each chord
18 change occurs and -- so that dictates
19 where the base notes would go.

20 Q And that's common practice
21 that the chord progression would
22 dictate where the base chord -- the
23 base notes go?

24 A Rhythmically, yes.

25 Q Well, beyond rhythmically it

1 STEWART

2 the caption says here.

3 Q So your testimony is we
4 should ignore everything that's
5 different between the two and just
6 focus on what's the same?

7 A No. Not all, no.

8 Q Okay. Just checking.

9 A But the -- this duration
10 thing is really kind of silly. It's
11 something that --

12 Q So you think the duration of
13 a note is irrelevant for your analysis?

14 A No, it's very pertinent. But
15 when we're talking about --

16 Okay. So how long is a half
17 a beat in this particular tempo? Let's
18 see, if there are approximately 80
19 beats per minute then it would be well
20 under a half a second for half a beat.
21 So did Mr. Sheeran hold that second
22 note, the F-sharp for a full three
23 seconds or did he hold it for 3.2
24 seconds or 2.8? I mean, that's
25 irrelevant. This is a perfectly valid

1 STEWART

2 representation of the durations. So
3 the difference in the duration between
4 the second note in Let's Get It On and
5 Thinking Out Loud is less than a half a
6 second. And in the context of the
7 recording and the other musical sounds
8 that are happening concurrently with
9 that base note I think it defies the
10 expectation of anyone to have
11 transcribed the exact duration of that
12 note.

13 So these could very well be
14 exactly the same duration. What is
15 really critical here is the placement
16 of the note. The placement of the note
17 on the end of one, and that it is a
18 note that is sustained. So I'm not
19 trying to manipulate anything here,
20 this is just something that any
21 musician who is not attempting to be
22 really pedantic about all this would
23 instantly grasp. I mean drums, for
24 example, are notated using half notes,
25 but when you hit a snare drum you're

1 STEWART

2 not holding out the note for two beats.
3 It's just indicating where the drum is
4 struck.

5 Q You transcribed it, not me.
6 So I'm just trying to get a sense of
7 what you think is important and what
8 you don't think is important.

9 A I'm trying to explain to you
10 how transcription works and how -- this
11 is a very fair and accurate
12 representation of the musical sounds in
13 these recordings.

14 Q Can you turn to the Ferrara
15 report at Page 18, Musical Example 2?

16 A Yes.

17 Q Do you agree that Dr. Ferrara
18 transcribed the first two bars of Let's
19 Get It On the same as in your Example
20 1?

21 A Yes.

22 Q And you agree that you did
23 not transcribe the third and fourth bar
24 in Let's Get It On in your Example 1?

25 A Yes. Because it's exactly

1 STEWART

2 the same as the first two except, as I
3 mentioned before, it has this little
4 embellishment at the end of the measure
5 which is something that the base player
6 on Let's Get It On does frequently and
7 varies that embellishment.

8 Q So you believe that bar four
9 of Let's Get It On is the same as bar
10 two of Let's Get It On?

11 A In essence, yes.

12 Q How many notes are in bar two
13 of Let's Get It On?

14 A Oh, this is -- this is
15 totally missing the point. My
16 transcription says the basic
17 baselines -- this is the exact same
18 thing that Dr. Ferrara did in his
19 initial report, he looked at the basic
20 baselines. He -- if we tried to talk
21 about every single minuet variation
22 throughout the entire song we would
23 lose sight of what the basic baseline
24 is because we would be constantly
25 discussing the trees instead of the